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HAWAIIAN GAZETTE

Late Foreign News.

The richest planter in Mississippi is said to be a colored man named Montgomery, formerly a slave of Jeff Davis.

The grangers of Missouri are following those of Iowa in establishing manufactories for agricultural implements.

Last year the wool produced in the United States amounted to 174,700,000 pounds, which was an increase of fourteen million pounds over 1872.

Two thousand dollars is a pretty high price to pay for a single rooster. That is what Mr. Davis, of Portland, has just given to Ira Batchelder for a Black Spanish cock—considered the best game bird in the country.

A significant feature of the town elections just held in Massachusetts has been the choice of women to serve on school committees. Many towns in the western and central portions of the State have taken this way to express their approval of the question which has been so stubbornly resisted in Boston.

Mrs. Myra Clark Gaines, the litigious, looks scarcely more than 40, though she is nearly 70; and wears a jaunty little hat, with a white or blue jessamine curling round its crown, at evening parties, and looks like a pretty picture, just stepping from its frame in some choice gallery of portraits.

"There can be little doubt," says the *Pall Mall Gazette*, "that by far the greater part of the mischief done in the world is done by silly people, and that silliness is, as a rule, quite as, if not more, dangerous to the community than wickedness, inasmuch as the unreasoning enjoy an immunity from punishment for their offences, which is not extended to the unprincipled."

Charcoal is a valuable internal palliative in dyspepsia, and in many of the disorders affecting the stomach and bowels. Taken in doses of a tablespoonful night and morning, it is an almost unfailing corrective of costive habit. Mixed with softening poultices, it is cleansing, soothing, and healing to foul sores. An occasional dose of the powder produces a favorable improvement in sallow or tawny complexions.

The ballot system, just employed for the first time in England at a general election, has given much satisfaction; not, perhaps, to politicians as a class, certainly not to defeated candidates, but to large numbers of persons who are glad to find elections taking place quietly and without the least interruption to business.

A San Francisco papers tell of a rose bush at Santa Rosa of the La Marque variety, which was planted in 1858, and presents now an immense bouquet of white roses, twenty-five feet high, twenty-two feet across, beautifully rounded, with a blossoming surface of four hundred square feet, with four thousand full-blown roses and twenty thousand buds.

The French town of Issoudun boasts of the most wonderful *lusus naturæ* of the age. It is a young girl, fourteen years old, whose body, from the waist downward, is double, and presents two parts acting independently of each other. The two legs she uses for walking belong each to a different trunk, whilst a third one is quite insensible to pain. She enjoys good health.

The decision of the City Solicitor of Boston that the women recently elected members of the School Committee cannot serve, is not favorably received in that city. The *Boston Journal* says the constitution says nothing upon the subject, and shows that the general statutes fully warrant the women in taking the positions. It says the movement giving the women the places was demanded by the public welfare, and adds: "The women elected to the School Board will take their places and enter upon their official duties. Then, if anybody wishes to raise the question of the legality of their election, he can do it; but we predict that he will only meet the invariable fate of those who have undertaken to interpose mere obsolete custom to the irresistible demands of justice and the public utility."

Statistics presented to the French Academy show that the marriages of blood relations form about two per cent. of all the marriages in France, and that the deaf and dumb offspring, at birth, of consanguineous marriages are, in proportion to the deaf and dumb born in ordinary wedlock—at Lyons full 25 per cent., at least 25 per cent. in Paris and 30 per cent. in Bordeaux—the proportions of the deaf and dumb by birth increasing with the degree of blood relationship. The data obtained show that if the danger of having a deaf and dumb child in ordinary marriage, represented by figures, is one, there will be 18 in marriages between first cousins, 37 in marriages between uncles and nieces, and 70 in marriages between nephews and aunts. It appears, too, that the most healthy parents, if related in blood, may have deaf and dumb children; while deaf and dumb parents, if not related, very rarely have deaf and dumb children.

Something New.—"Quick transit" is the problem that vexes the city of New York. All means proposed fail in practice. The last one is the most astounding one of all. It is for a moving sidewalk, to be propelled like an endless chain, by stationary engines, placed at the distance of a mile or half a mile apart. As the sidewalk on one side of the street moves in one direction, that on the other side moves in the opposite direction. The rate of speed suggested varies from 8 to 10 and as high as 15 miles an hour. And this plan is now being seriously discussed in the Albany Legislature, on a motion to grant a charter to a Moveable Sidewalk Company, to operate on certain thoroughfares in New York city. The working model is said to be the most convincing as to the practicability of the scheme. Speer is the inventor, and the invention is named "Speer's Traveling Sidewalk."—*Sac. Union.*

Supreme Court of the Hawaiian Islands.

Manjero, Sakutaro, Tookataro, Takajero, Yasugero, Kumakitchie, Matsoogo and Yoskie, libellants, vs. J. C. Davis, respondent and appellant.

Libel in admiralty on appeal from Justice Hartwell.

Appeal to Supreme Court in admiralty, ALLEN, C.J., HARRIS and JUDD, J.J. Mr. Justice Judd delivered the opinion of the Court.

The Japanese crew of the Hawaiian schooner South Sea filed a libel against J. C. Davis, master and owner of said vessel, claiming, in addition to their wages, passage money from Honolulu to Yokohama, Japan; and introduced evidence to show that the voyage of said vessel was from Japan to the South Sea Islands and return to Japan.

The respondent introduces the shipping articles of which there are two. The first one, dated January 23d, 1873, signed by all the libellants except Manjero, describes the voyage as from "Kanagawa, Japan, to Honolulu via Marianas Islands," and bears the certificate of E. M. Van Reed, H. H. M.'s Consul General for Japan, to the effect that the said articles were made out and signed in this Consulate, that they were read and explained by him to the parties whose names are subscribed thereto, comprising the crew of the said vessel, and that each of them personally acknowledged that he fully understood the same and had signed his name, of his own free will and accord, and the certificate is impressed with the seal of the consulate. The libellant Manjero is shipped on separate articles dated February 1st, 1873, for a voyage "from Kanagawa, Japan, to South Sea Islands and return unless sooner discharged not to exceed six calendar months."

These second articles bear a certificate to the same purport as the first except that it is signed by C. A. Shephard, United States Consul and acting His Hawaiian Majesty's Consul General for Japan, and impressed, very properly, with the seal of the United States Consulate. The respondent in his answer expresses his willingness to pay the crew their wages, and to provide for Manjero a passage back to Japan.

E. Preston and R. H. Stanley, proctors for libellants:—The decree of $45 passage money back to Japan for each libellant must be affirmed, because it appears from the evidence that the libellants were induced to sign under the representation that they were to be returned to Japan. The two shipping articles are inconsistent with each other. The entries in the log book show that the voyage was intended to be as claimed by libellants. Shipping articles as to destination may be rebutted by parol.

W. C. Jones, proctor for respondent:—Shipping articles are conclusive as to destination and wages. Manjero's contract to be returned to Japan does not control the contract of the other seamen. The log shows the destination was to Honolulu after the intermediate trading voyage in the South Seas was concluded.

Per Curiam: Although in admiralty seamen are allowed to join in a libel for wages, yet their's is not a joint contract, though all may have signed the same shipping articles; each contract may be considered separately though in the same proceedings; for the shipping articles constitute a several contract with each seaman. Oliver *et al.* vs. Alexander *et al.*, 6 Peters, 143.

Viewing, therefore, the contract between the master and Manjero made on the 1st of February, which was for a voyage from Japan to the South Sea Islands and return, as a separate and distinct engagement to return him to Japan, it is not inconsistent with the master's contract with the seven Japanese engaged on the 23d of January; for their voyage was to Honolulu via the Marianas Islands, which from Japan might properly be called South Sea Islands. The contract with them contained no engagement to return to Japan—and their voyage was consistent with Manjero's voyage—being the same so far as it went, but Manjero's was to continue further, that is, back to Japan.

Having thus far considered the two shipping articles as they appear on their face, and which we regard as *prima facie* evidence of the voyage intended, let us see if the libellants have rebutted their apparent intent.

The log books are introduced, which begin the voyage with an entry "Voyage from Yokohama to the South Sea Islands." It does not say "to Honolulu," which an uninformed navigator may have considered as one of the South Sea Islands,—but also, it does not say, "and back to Japan." On examining both log books we find it the custom of both the captain and the mate to write at the top of each page the particular intermediate passage which the vessel was then pursuing, as for example, "Guam to Tinnyan," "Tinnyan to Bonin Islands," and "Bonin Islands to Honolulu." On the 20th of July, 1873, the vessel left the Bonin Islands, and on the 21st the mate Payne resumed his charge of the log and heads the page for that day "Bonin Islands to Honolulu," and this heading is continued every day until the vessel reaches this port. The men came aft on the 23d of July and demanded to know why the vessel was heading so much to the eastward and not to Japan, and the captain answers that he was going to Honolulu. The courses in the log do not show that he ever steered westward or towards Japan after leaving the Bonin Islands.

There is some evidence from Daniel Ball, the cook, that at the time the crew came aft (July 23d) the captain told them that when he got to Honolulu he would see that they had their passage back to Japan. But Ball shipped on the articles first mentioned, that is to "Honolulu via Marianas Islands," and his testimony must be received with caution as being one of the crew, his interests identical with the libellants, and if he wished to go back to Japan, he might have made common cause with them.

The testimony of Payne, the mate, is irreconcilable. He says that after they left Bonin Islands, two days out, the captain told the boatswain that he was going to Japan, and two days after started for Honolulu; and yet the entries in the log made by this very witness show that the schooner was making the best of her way to Honolulu from the time of leaving the Bonin Islands, that it was on the third day from the Bonin Islands that the crew came aft and demanded to know where they were going.

We are of the opinion that the libellants have not shown that they were induced to sign the shipping articles by fraudulent representations, and that the shipping articles as to the termination of the voyage have not been rebutted. The decree of the lower Court is reversed except as to Mangero, and with costs to the respondent as he offered in his answer to provide Manjero with a passage to Japan. Decree accordingly.

ELISHA H. ALLEN,
CHAS. C. HARRIS,
A. FRANCIS JUDD.

Honolulu, April 29, 1874.

Supreme Court—In Banco. April Term, A. D. 1874.

The King vs. John Assgut, et al.

Appeal from the Circuit Court of the Third Judicial Circuit. Present, ALLEN, C. J., HARRIS and JUDD, J. J.

Chief Justice Allen delivered the opinion of the Court as follows:

This is an indictment against the defendant, under the Statute for obstructing and perverting Justice.

The charge was that the defendant had illegally rescued cattle from a government pound with intent to defeat a seizure. A trial by jury was had at the Circuit Court of the Third Judicial Circuit, and a verdict of guilty was rendered. It appeared by the evidence of Mr. Frank Spencer, that the old pound was at Puuloa, and that he had put the pound, where it now is, on his own responsibility.

He further testified, that he had leased the pound to Ulii, the pound-keeper for one year. He says further, "I don't think the governor knew about the removal of the pound. It was done on my authority. I do not know that the governor ever published the place as the pound, but he recognized it as such, and arranged for repairing the wall."

After the evidence was closed, the counsel for the defendant requested the Court to charge the jury that there was no evidence that the pound had been established according to the provisions of Section 231 of the Civil Code, which are in these words.

"It shall be the duty of the Minister of the Interior through the several governors, to construct and set apart a suitable enclosure, or enclosures, in each district of their respective Islands for the impounding of estrays, and he shall give notice of their location and extent in some public newspaper."

The Court refused the instruction as requested, but did instruct the jury to regard the pound in question as a government pound, to which ruling the counsel excepted.

The minister acts through the governors in establishing pounds, and in this instance the governor recognized the enclosure in question as the pound, and complied with the code to this extent, for it is of no consequence whether he constructs and sets apart a suitable enclosure in the first instance, or recognizes and adopts one already made. It is contended further that notice should be given of the location and extent in some public newspaper, as required by the Statute, and that this provision is mandatory and not directory, as maintained by the Attorney General.

Lord Mansfield said that "whether the Statute was mandatory or not depended upon whether the thing directed to be done was the essence of the thing required."

In the case of People vs. Schermuhoin, 19 Barb., the Court say, "that when a power to affect property is conferred by Statute upon those who have no personal interest in it, such power can be exercised only in the manner and under the circumstances specified, the power must be strictly pursued."

Chief Justice Shaw, in a case involving the legality of a tax under the provisions of a statute said, "One rule is very plain and well settled, that all measures which are intended for the security of the citizen; for securing an equality of taxation, and to enable any one to know with reasonable certainty, for what real and personal estate he is taxed, are conditions precedent, and if they are not observed, he is not legally taxed, and he may resist it in any of the modes authorized by law for contesting the validity of the tax."

When the rights of a party are affected by a proceeding under statute authority, the mode of proceeding directed is mandatory, and must be strictly complied with, or the proceeding will be utterly void.

By the Penal Code, a heavy penalty is imposed on a person who rescues a thing that is under legal seizure, with intent to defeat such seizure. In this case the respondent is liable to the penalty, if the cattle were impounded in an enclosure, set apart for that purpose, of which due notice was given in a public newspaper. The Statute requires that notice shall be given to the public, but in this case, no evidence was introduced that it was so given. The responsibility of rescuing cattle from a government pound, of which legal notice has been given, or from the enclosure or fields of individuals, is very different. The one is punished by a severe penalty, and in the other case the party is mulcted in damages as a trespasser. Hence the public have a right to be informed, in the mode prescribed by law, of the establishment of government pounds. A person might take the responsibility in the one case, and decline to take it in the other.

It is a penal law in its consequences, and should be construed strictly.

This notice is intended for the security of the subject, both for his liberty and his property, and while all the authorities sustain the doctrine, that where one may be divested of his estate by a proceeding under statute authority, the mode of proceeding is mandatory, and must be strictly complied with; it is more incumbent on the Court to enforce the rule when the liberty of the subject is involved.

Long user might be taken as evidence that a notice according to the statute had been given. But in this case, there is evidence that no notice had been given at the beginning of the user, and there is no evidence that notice has been given since.

The true intent and object of this provision of the Statute was that the public should have notice of the establishment of the pound, and this being the case, it should be given as prescribed, and as it was not so given, the exception is sustained, and a new trial ordered.

The Attorney General for the Crown.
W. C. Jones for the Exceptions.

ELISHA H. ALLEN,
CHAS. C. HARRIS,
A. FRANCIS JUDD.

Honolulu, April 29th, A. D. 1874.

Supreme Court of the Hawaiian Islands—In Probate.

In the matter of the Guardianship of Rosa Bartlett Duncan.

Appeal to the Supreme Court in Banco, April Term, A. D. 1874.—ALLEN, C. J., HARRIS and JUDD, J. J.

Mr. Justice Judd delivered the opinion of the Court: Daniel P. True was qualified as Guardian of Rosa Bartlett, a minor, on the 25th of July, 1859; and received the sum of $1,097.45 as his ward's estate. No accounts were filed by him as required by the Statute and the terms of his bond, but on the 10th October 1873, he is brought into Court on the petition of his ward who had become of age and had married.

In this account, thus compelled, the guardian charges the sum of $1,830.75 for board of the ward from June 1858, to July 1870, twelve years, at the rate of $3 per week, and shows an expenditure of $240, for clothing and schooling. It does not appear that the funds of the estate were invested, or that the guardian had made application to the Court to be allowed to use the principal for the maintenance of the ward. Both parties appealed.

S. B. Dole, Esq., for the Guardian. Our Statutes allow a guardian to use the principal of a ward's estate for maintenance. Commissions should be allowed on the interest charged against him.

L. McCully, Esq., for the Ward. The guardian may not break into his ward's principal without leave of the Court, and then only on express and necessary cause shown.

Per Curiam: The Civil Code authorizes a guardian to pay all just debts due from the ward out of his personal estate; but the "debts" mentioned in this section are not those incurred by the guardian for maintenance of the ward during the progress of the trust.

After the debts which were incurred by the ward before the inception of the trust are paid, the balance constitutes the principal, which must be invested by the guardian, and the income and profits accruing from it are all that the guardian may expend for maintenance of his ward. This is the obvious meaning of Sections 1357 and 1358 of the Civil Code.

A guardian may not of his own authority encroach upon the principal of a ward's estate for the purpose of maintaining his ward, and it is imperative upon him to obtain the leave and direction of the Court before he can touch the principal for such purposes.

In this case, however, no application was made by the guardian for the direction of the Court, but he has assumed the authority.

It is the duty of a guardian to keep the money belonging to the trust estate properly invested, and if he neglects to make investments he is chargeable with interest.

Walker vs. Wetherell, 6 Vesey J, 473; In re Bostwick, 4 John. Ch. 99; De Pegster vs. Clarkson, 2 Wendell, 78. Applying these principles to the case before us, the Guardian True must account for the whole of the principal sum remaining in his hands, after paying the debts of his ward, which we find as follows:

Amount of Cash received by Guardian		1097 45
Deduct debts of the Ward, viz: for clothing, schooling, &c., of Rosa Bartlett from June 1 to 1858 to July 25, 1859, when the trust began	$ 62	
Also board, washing and lodging for same period, 59 weeks at $3	177	
Also Statute commissions	106 93	
		346 93
Principal when trust began was		$750 63

It is not necessary to enquire what would be the cost of board, clothing, schooling, etc., of a girl of the condition of this ward, for, be the same much or little, the guardian was authorized to expend for these purposes only the income or interest arising from the fund—unless he obtained leave of the Court to break in upon the principal.

For this reason it will not help the guardian any to allow him commissions on the interest earned, for he claims that he spent all the interest in the support of his ward, and much more.

We therefore decree that the guardian pay over to the husband of his late ward, the sum of $750 63 less the costs below, which may be allowed out of the fund, for a proceeding for settlement of accounts was necessary. Costs of this appeal to be paid by the guardian.

E. H. ALLEN,
C. C. HARRIS,
A. F. JUDD.

Honolulu, April 28th, 1874.

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CHELSEA LAUNDRY!

HONOLULU, H. I., July 7, 1873.

ON AND AFTER THIS DATE THE FOLLOWING RATES will be charged on all work done at this Laundry:

Gentlemen's List.

	Cents
White or Colored Shirts, Polished, each	20
White or Colored Shirts, Plain, each	15
White or Colored Collars, Polished, each	6
White or Colored Collars, Plain, each	5½
White or Colored Cuffs, Polished, ¶ pair	6
White or Colored Cuffs, Plain, ¶ pair	5½
White Coats, each	25
White Pants, each	15
White Vests, each	10
Cloth Coats, each	20
Cloth Pants, each	10
Cloth Vests, each	10½
Undershirts, each	5½
Drawers, each	5½
Night Shirts, each	5½
Night Pants, each	5
Handkerchiefs, each	4
Socks or Stockings, ¶ pair	4

Ladies' List.

Underclothing, Plain, each	5½
Underclothing, Starched, each	5½
Underclothing, Starched and Flaired, for each Ruffle	10
Skirts, Plain, each	15
Skirts, Tucked or Flaired, and 10c. for each Ruffle, each	25
Waists, Plain	5½
Waists, Tucked or Flaired, and 10c. for each Ruffle, each	15
Waists, Tucked or Flaired, and extra with lace, and 25 cents for each Ruffle, each	25
Dresses, White or Colored, Plain	20
Dresses, Tucked or Flaired, and 10 cents for each Ruffle, each	30
Dresses, Ruffled with Braiding, and extra with Lace, and 25 cents for each Ruffle, each	50
Night Dresses, Plain, each	25
Night Dresses, with Flaining, 5 cts. for each Ruffle, each	15½

Children's List.

Nightgowns, Plain, each	5
Drawers, Plain, each	5
Drawers, Flaired, each	5½
Waists, Plain, each	5
Skirts, Plain, each	5
Skirts, Tucked or Flaired, each, and 10c for each Ruffle	15
Slips, Plain, each	5½
Slips, Tucked or Flaired, each, and 10c for each Ruffle	15½
Dresses, Plain, each	15½
Dresses, Tucked or Flaired, each, and 10c for each Ruffle	25
Socks or Stockings, ¶ pair	4

Household List.

Table Cloths, Large, Plain, each	20
Table Cloths, Large, Starched, each	25
Table Cloths, Medium, Starched, each	15½
Table Cloths, Small, Plain, each	10
Table Cloths, Small, Starched, each	15
Sheets, Single, each	5½
Sheets, Double, each	10
Towels, each	5½
Napkins, each	5
Pillow Slips, Plain	5
Pillow Slips, Starched	10
Pillow Slips, Flaired	15
Counterpanes, Large, each	25
Counterpanes, Small, each	15½
Blankets, Large, each	25
Blankets, Medium, each	15
Blankets, Small, each	10½
Window Curtains, Large, each	25
Window Curtains, Medium, each	15
Window Curtains, Small, each	10½
Mosquito Nets, each	50

MY MOTTO—What is worth doing at all, is worth doing well.

MY INTENTION—To give Satisfaction to all.

MY TERMS—Cash on Delivery.

I Respectfully Solicit the Public Patronage

☞ Office at Messrs. H. H. McINTYRE & BRO'S Grocery, Fort Street near Judiciary, Corner of Fort and King Sts. ☜

Wagon calls for all Orders.

465-6y W. H. WALLACE, Proprietor.

Dellinger's Pilot Bread!

IN BOXES,

Just Received per J. A. Falkinburg.

For Sale by (459 tf) H. HACKFELD & CO.

Crushed Sugar

IN 100 LB. KEGS.

FOR SALE BY

459 tf H. HACKFELD & CO.

For Sale.

THE HOUSE LOT AND LARGE KAAI PATCH, on the mountain of Punchbowl, Valley belonging to the Estate of the late Governor H. Cooper. For particulars apply to

W. L. GREEN,
Or, A. S. CLEGHORN.

Executors under the will of the late Governor Cooper.

473 tf

For Sale,

BEST KIND OF FIREWOOD,

Cut in Short Lengths

Australian Wallsend Coal!

In Quantities to Suit.

JAS. I. DOWSETT.

479 3m Corner Queen and Fort Streets.

THE HAWAIIAN GAZETTE

BOOK, JOB, AND CARD

Printing Establishment

Possesses a good assortment of

JOB PRINTING TYPE,

Well adapted to the Printing of

POSTERS OF ANY SIZE!

EITHER IN PLAIN OR

Fancy Colors

BUSINESS,
VISITING and
WEDDING CARDS.

BILLHEADS!

HOTEL BILLS OF FARE.

BALL TICKETS,
CIRCULARS,
ENVELOPES,
LAW BLANKS,
RECEIPTS.

BOOKS and PAMPHLETS,
MINISTERIAL REPORTS,
LAWYERS' BRIEFS,
CATALOGUES,
PROGRAMMES,
NEWSPAPERS,
&c., &c., &c.

Having long enjoyed the confidence and patronage of the public in my business transactions, I take this opportunity to return my thanks for past favors, and respectfully ask a continuance of the same.

H. M. WHITNEY,
Proprietor.